

Calendar No. 210

109TH CONGRESS
1ST SESSION

S. 1688

To provide 100 percent Federal financial assistance under the Medicaid and State children's health insurance programs for States providing medical or child health assistance to survivors of Hurricane Katrina, to provide for an accommodation of the special needs of such survivors under the medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2005

Mrs. HUTCHISON (for herself and Mr. CORNYN) introduced the following bill;
which was read the first time

SEPTEMBER 13, 2005

Read the second time and placed on the calendar

A BILL

To provide 100 percent Federal financial assistance under the Medicaid and State children's health insurance programs for States providing medical or child health assistance to survivors of Hurricane Katrina, to provide for an accommodation of the special needs of such survivors under the medicare program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Hurricane Katrina
3 Medicaid and SCHIP Relief Act of 2005”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **DISASTER PERIOD.**—

7 (A) **IN GENERAL.**—Subject to subpara-
8 graph (B), the term “disaster period” means,
9 with respect to any State that includes an area
10 for which a major disaster has been declared in
11 accordance with section 401 of the Robert T.
12 Stafford Disaster Relief and Emergency Assist-
13 ance Act (42 U.S.C. 5170) as a result of Hurri-
14 cane Katrina, the period beginning on the ear-
15 liest date on which any area of the State was
16 so declared and ending on the earlier of—

17 (i) the latest date for which any such
18 declaration of an area of the State termi-
19 nates; or

20 (ii) 6 months after the beginning of
21 such period.

22 (B) **ONE-TIME EXTENSION.**—The Presi-
23 dent may extend the disaster period under sub-
24 paragraph (A) with respect to a State for a pe-
25 riod of up to 6 months. Any reference to the

term “disaster period” in this Act shall include any extension under this subparagraph.

(2) KATRINA SURVIVOR.—

(A) IN GENERAL.—The term “Katrina Survivor” means individuals who—

(i) reside in an area for which a major disaster has been declared in accordance with 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina; or

(ii) resided in such an area on any day during the week preceding the date that the major disaster was declared with respect to that area.

(B) TREATMENT OF HOMELESS PERSONS.—In the case of an individual who was homeless within an area described in subparagraph (A) on any day during the week preceding the date on which a major disaster for such area was first declared, the individual’s “residence” shall be deemed to be the place of residence as otherwise determined for such an individual under title XIX or XXI (as the case may be) of the Social Security Act.

1 **SEC. 3. AUTHORITY TO PROVIDE MEDICAL ASSISTANCE**
 2 **UNDER MEDICAID OR CHILD HEALTH ASSIST-**
 3 **ANCE UNDER THE STATE CHILDREN'S**
 4 **HEALTH INSURANCE PROGRAM TO KATRINA**
 5 **SURVIVORS.**

6 During the disaster period, any State may provide
 7 medical assistance under a State Medicaid plan estab-
 8 lished under title XIX of the Social Security Act (42
 9 U.S.C. 1396 et seq.), without submitting a State plan
 10 amendment, to Katrina Survivors, or, in the case of a
 11 Katrina Survivor who is a child, child health assistance
 12 under a State child health plan under title XXI of such
 13 Act (42 U.S.C. 1397aa et seq.), in accordance with the
 14 following:

15 (1) UNIFORM ELIGIBILITY RULES.—

16 (A) NO INCOME, RESOURCES, RESIDENCY,
 17 OR CATEGORICAL ELIGIBILITY REQUIRE-
 18 MENTS.—Such assistance shall be provided
 19 without application of any income or resources
 20 test, State residency, or categorical eligibility
 21 requirements.

22 (B) STREAMLINED ELIGIBILITY PROCE-
 23 DURES.—The State shall use the following
 24 streamlined procedures in processing applica-
 25 tions and determining eligibility for medical or
 26 child health assistance for Katrina Survivors:

1 (i) A common 1-page application form
2 that shall include notice regarding the pen-
3 alties for making a fraudulent application
4 under paragraph (4) and shall require the
5 applicant to assign to the State any rights
6 of the applicant (or any other person who
7 is a Katrina Survivor and on whose behalf
8 the applicant has the legal authority to
9 execute an assignment of such rights)
10 under any group health plan or other
11 third-party coverage for health care.

12 (ii) Self-attestation by (or in the case
13 of a child, on behalf of) the applicant that
14 the applicant is a Katrina Survivor.

15 (iii) No requirement for documenta-
16 tion evidencing the basis on which the ap-
17 plicant qualifies to be a Katrina Survivor.

18 (iv) Issuance of an eligibility card to
19 an applicant who completes such applica-
20 tion, including the self-attestation required
21 under clause (ii). Such card shall be valid
22 during the disaster period.

23 (v) If an applicant completes the ap-
24 plication and presents it to a provider or
25 facility participating in the State Medicaid

plan or the State child health plan that is qualified to make presumptive eligibility determinations under such plan (which at a minimum shall consist of facilities identified in section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) and it appears to the provider that the applicant is a Katrina Survivor based on the information in the application, the applicant will be deemed to be a Katrina Survivor eligible for medical or child health assistance in accordance with this section, subject to paragraph (3).

(vi) Subject to paragraphs (3) and (4), continuous eligibility, without the need for any redetermination of eligibility, for the duration of the disaster period.

(2) SCOPE OF COVERAGE SAME AS CATEGORICALLY NEEDY OR TARGETED LOW-INCOME CHILD.—

(A) IN GENERAL.—The State shall treat a Katrina Survivor as an individual eligible for medical assistance under the State plan under title XIX of the Social Security Act on the basis of section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)), or, in

the case of a child, as a targeted low-income child under the State child health plan under title XXI of such Act (42 U.S.C. 1397aa et seq.), with coverage for such assistance retroactive to the earliest date described in section 2(1) that is applicable to such Survivor.

(B) REIMBURSEMENT OF ITEMS AND SERVICES THAT A PROVIDER DETERMINES ARE MEDICALLY NECESSARY.—The State shall pay a provider of medical or child health assistance (including a provider of mental health services) for an item or service provided by the provider to a Katrina Survivor which is not within the scope of coverage applicable to the Survivor under subparagraph (A) upon a determination by the provider that the provision of such item or service is medically necessary for the Survivor (without regard to the State’s standard which would otherwise apply to a determination of medical necessity).

(3) VERIFICATION OF STATUS AS A KATRINA SURVIVOR.—

(A) IN GENERAL.—The State shall make a good faith effort to verify the status of a Katrina Survivor enrolled in the State Medicaid

1 or child health plan under the provisions of this
2 section after the determination of the eligibility
3 of the Survivor for medical or child health as-
4 sistance under such plan.

5 (B) EVIDENCE OF VERIFICATION.—A
6 State may satisfy the verification requirement
7 under subparagraph (A) with respect to a
8 Katrina Survivor by showing that the State
9 providing medical or child assistance obtained
10 information from the Social Security Adminis-
11 tration, the Internal Revenue Service, or, in the
12 case of a Katrina Survivor who resided in a
13 State for which a major disaster has been de-
14 clared in accordance with 401 of the Robert T.
15 Stafford Disaster Relief and Emergency Assist-
16 ance Act (42 U.S.C. 5170) as a result of Hurri-
17 cane Katrina, the State Agency for that State
18 with responsibility for administering that
19 State’s Medicaid or child health plan.

20 (C) DISALLOWANCE OF PAYMENTS FOR
21 FAILURE TO MAKE GOOD FAITH EFFORT.—If,
22 with respect to the status of a Katrina Survivor
23 enrolled in a State Medicaid or child health
24 plan, the State fails to make the good faith ef-
25 fort required under subparagraph (A), and the

1 Secretary determines that the individual so en-
2 rolled is not a Katrina Survivor, the Secretary
3 shall disallow all Federal payments made to the
4 State that are directly attributable to medical
5 or child health assistance provided or adminis-
6 trative costs incurred with respect to the indi-
7 vidual during the disaster period.

8 (4) PENALTY FOR FRAUDULENT APPLICA-
9 TIONS.—

10 (A) INDIVIDUAL LIABLE FOR COSTS.—If a
11 State, as the result of verification activities con-
12 ducted under paragraph (3), determines that an
13 individual has knowingly made a false self-at-
14 testation described in paragraph (1)(B)(ii), the
15 State may, subject to subparagraph (B), seek
16 recovery from the individual for the full amount
17 of the cost of medical assistance provided to the
18 individual under this section. The recovery of
19 such amount shall be in addition to any other
20 penalties that may be prescribed by law.

21 (B) EXCEPTION.—The Secretary shall ex-
22 empt a State from seeking recovery under sub-
23 paragraph (A) if the Secretary determines that
24 it would not be cost-effective for the State to do
25 so.

(C) REIMBURSEMENT TO THE FEDERAL GOVERNMENT.—Any amounts recovered by a State in accordance with this paragraph shall be returned to the Federal Government, except that a State’s administrative costs attributable to obtaining such recovery shall be reimbursed by the Federal Government in accordance with section 4.

(5) EXEMPTION FROM ERROR RATE PENALTIES.—All payments attributable to providing medical assistance to Katrina Survivors in accordance with this section shall be disregarded for purposes of section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)).

SEC. 4. 100 PERCENT FEDERAL FINANCIAL ASSISTANCE FOR MEDICAL AND CHILD HEALTH ASSISTANCE AND ADMINISTRATIVE COSTS.

Notwithstanding sections 1903(a), 1905(b), and 2105(b) of the Social Security Act (42 U.S.C. 1396b(a), 1396d(b), 1397ee(b)), the Federal medical assistance percentage (or the enhanced FMAP, in the case of section 2105(b) of such Act) for providing medical assistance under a State Medicaid plan under title XIX of such Act or child health assistance under a State child health plan to a Katrina Survivor, and for costs directly attributable

1 to all administrative activities related to the provision of
 2 such assistance, shall be 100 percent during the disaster
 3 period applicable to the area of residence (or former resi-
 4 dence) of such a Survivor.

5 **SEC. 5. ACCOMMODATION OF SPECIAL NEEDS OF KATRINA**
 6 **SURVIVORS UNDER MEDICARE PROGRAM.**

7 (a) EXCLUSION OF DISASTER RELIEF PERIOD IN
 8 COMPUTING PART B LATE ENROLLMENT PENALTY.—In
 9 applying the first sentence of section 1839(b) of the Social
 10 Security Act (42 U.S.C. 1395r(b)) in the case of a Katrina
 11 Survivor, there shall not be taken into account any month
 12 any part of which is within the disaster period or within
 13 the 2-month period following the end of such disaster pe-
 14 riod.

15 (b) PART D.—

16 (1) EXTENSION OF INITIAL ENROLLMENT PE-
 17 RIOD.—In the case of a Katrina Survivor, the initial
 18 enrollment period under section 1860D–1(b)(2) of
 19 the Social Security Act (42 U.S.C. 1395w–
 20 101(b)(2)) shall in no case end before May 15,
 21 2007.

22 (2) FLEXIBILITY IN DOCUMENTATION FOR
 23 LOW-INCOME SUBSIDIES.—For purposes of carrying
 24 out section 1860D–14 of the Social Security Act (42
 25 U.S.C. 1395w–114), with respect to Katrina Sur-

1 vivors, the Secretary of Health and Human Services
2 shall establish documentation rules for Katrina Sur-
3 vivors which take into account the loss and unavail-
4 ability of documents due to Hurricane Katrina.

5 **SEC. 6. GENERAL PROVISIONS.**

6 (a) **AUTHORITY TO RELY ON WEBSITE POSTED DES-**
7 **IGNATIONS.**—The Secretary of Health and Human Serv-
8 ices shall post on the Internet website for the Centers for
9 Medicare & Medicaid Services a list of areas, including
10 parishes and counties, identified as areas for which a
11 major disaster has been declared in accordance with sec-
12 tion 401 of the Robert T. Stafford Disaster Relief and
13 Emergency Assistance Act (42 U.S.C. 5170) as a result
14 of Hurricane Katrina. Any State which provides medical
15 or child health assistance to Katrina Survivors on the
16 basis of such posting and in accordance with this Act shall
17 be held harmless if it is subsequently determined that the
18 provision of such assistance was in error.

19 (b) **EMERGENCY DESIGNATION.**—The preceding pro-
20 visions of this Act are hereby designated as emergency re-
21 quirements pursuant to subsections (a) and (b) of section
22 402 of H. Con. Res. 95 (109th Congress).

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